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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/775,304

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Kevin L. Farley

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21005

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09/08/2004

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EXAMINER

HSU, ALPUS

ART UNIT

PAPER NUMBER

2665

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/775,304

Applicant(s)

FARLEY ET AL.

Examiner

Alpus H. Hsu

Art Unit

2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26-39 is/are allowed.
- 6) ☒ Claim(s) 1-25 and 40-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

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1. Claim 25 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 25, line 1, "the additional bandwidth" lacks antecedent basis if claim depends on claim 23. The correct claim dependency for the claim should be claim 24.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-11, 13-16, 21-25, 40-44 are rejected under 35 U.S.C. 102(b) as being anticipated by LO in U.S. Patent Number 5,166,929 or U.S. Reissue Patent No. RE 37,301.

By broadly interpreting the reverse channel as the claimed Acknowledgement channel or feedback channel, and the mobile stations as the claimed field units, each of LO discloses a method for communicating information in a wireless communication system by allocating at least one channel to be an acknowledgement/feedback channel for carrying information between multiple field units and a base station, assigning at least one channel for communicating a data payload between the base station and a corresponding field unit, and transmitting acknowledgement/feedback information associated with the data payload over the acknowledgement/feedback channel (see col. 2, line 62 to col. 3, line 14, col. 3, line 50 to col. 4, line 13 in '929, col. 2, line 61 to col. 3, line 12, col. 3, line 47 to col. 4, line 11 in '301) as in claims 1-11, 13-16, 21-25, 40-44.

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4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 12, 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over LO in U.S. Patent Number 5,166,929 or U.S. Reissue Patent No. RE 37,301 in view of GOODINGS et al. in U.S. Patent No. 5,377,192.

Regarding claim 12, each of LO references differs from the claim, it fails to disclose the feature of utilizing CRC check bits, which is well known in the art and commonly applied in data communications field for error detection/correction purpose. GOODINGS et al., for example, from the similar field of endeavor, teaches the use of CRC code for retransmission protocol (see col. 16, lines 44-48), which can be easily adopted by one ordinary skill in the art to implement into either system of LO, to provide system with error detection/correction capability to further improve the system reliability.

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Regarding claim 17, each of LO references differs from the claim, it fails to disclose the feature of having information includes network message based on TCP/IP protocol, which is well known in the art and commonly used in data communications field for internet related application. The examiner hereby takes the official notice that it would have been obvious to one of ordinary skill in the art to implement the message associated with TCP/IP protocol in internet related application to provide system with compatibility with the new network environment.

Regarding claims 18-20, each of LO references differs from the claim, it fails to disclose the feature of generating acknowledgement information from multiple network layers, which is also well known in the art and commonly applied in data communications field for data protocol implementation. GOODINGS et al., for example, from the similar field of endeavor, teaches the use of data protocol implementation in multiple network layers, which can be easily adopted by one ordinary skill in the art to implement into either system of LO, to provide system with layered protocol capability to enhance the system performance.

7. Claims 26-39 are allowed.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Mock et al. and Mouldsley are cited to show the common feature of data communication between base station and subscriber units utilizing reverse channel for signaling control purpose similar to the claimed invention.

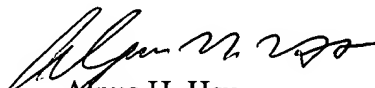
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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alpus H. Hsu whose telephone number is (571)272-3146. The examiner can normally be reached on M-F (5:30-3:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D. Vu can be reached on (571)272-3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AHH

  
Alpus H. Hsu  
Primary Examiner  
Art Unit 2665